

REMARKS

Applicant notes with appreciation the Examiner's indication that claim 77 is allowed.

Claims 2, 5, 7, 9, 14, 16, 18, 21, 23, 29, 33, 37, 43, 50, 57, 61, 68, 72 and 76-83 were previously pending in this application. By this amendment, Applicant is canceling claims 16, 18, 21, 23, 29, 33, 37, 43, 50, 57, 61, 68 and 72, directed to a non-elected invention, and claim 80, without prejudice or disclaimer. Claims 2, 9 and 76 have been amended. New claims 84-87 have been added. As a result claims 2, 5, 7, 9, 14 and 76-79 and 81-87 are pending for examination with claims 2, 9 and 84 being independent claims. No new matter has been added.

Rejections Under 35 U.S.C. §102

The Examiner rejected claims 9 and 80-82 under 35 U.S.C. §102(b) as being anticipated by Fikes, et al. (WO 95/04542). The Examiner asserts that Fikes teaches a polypeptide comprising SEQ ID NO: 7 at page 14, last paragraph to page 16 and in claim 8. According to the Examiner, it is an inherent property of the SEQ ID NO: 7 portion of the polypeptide taught by Fikes that it binds HLA DRB1*15. Further, the Examiner asserts that the polypeptide taught by Fikes also contains a MAGE-1 HLA class 1 binding peptide (e.g., it is a polytope polypeptide).

Although Applicant respectfully disagrees that Fikes teaches a polytope containing both HLA class 1 and class 11 peptides, Applicant has canceled claim 80 and amended claim 9 to recite that the MAGE-1 class I and class 11 peptides are separate isolated peptides. Support for this amendment is found in the application at page 30, lines 14-20 and page 30, lines 28 to page 31, line 6, which recites that polytopes are preferred, thus implicitly disclosing non-polytopic combinations of peptides.

Applicant also has added new claims 84-87, which are directed to combinations of MAGE-1 HLA class 11 peptides and non-MAGE-1 class 1 peptides. Support for these claims is found in the application at page 30, line 21 to page 34, line 2. Fikes does not teach such a combination.

In view of the amendment to claim 9, Applicant respectfully requests withdrawal of the rejection made under 35 U.S.C. §102(b) based on Fikes et al.

Rejections Under 35 U.S.C. §103

The Examiner rejected claims 9, 14, 80-83 under 35 U.S.C. §103(a) as being unpatentable over Fikes, et al. (WO 95/04542) in view of Sanderson, et al.

As noted above, Applicant has amended claim 9 and canceled claim 80. The pending claims no longer encompass the Fikes polypeptide. Accordingly, withdrawal of this rejection is respectfully requested.

The Examiner rejected claims 2 and 76 under 35 U.S.C. §103(a) as being unpatentable over Fikes, et al. (WO 95/04542).

Although Applicant respectfully disagrees that Fikes teaches the HLA class II peptide of claim 2, Applicant has amended claims 2 and 76 to recite that the functional variant of the MAGE-1 class II peptide can consist of one amino acid addition or substitution, but not a deletion. Applicant disagrees that the Fikes application would suggest to one of ordinary skill in the art that a Glu residue should be added, rather than any of the other mentioned amino acids, or no amino acids at all.

As amended, claims 2 and 76 no longer includes a sequence that makes the rejection over Fikes possible. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 2 and 76 under 35 U.S.C. §103(a) over Fikes.

The Examiner rejected claims 5 and 78 under 35 U.S.C. §103(a) as being unpatentable over Fikes, et al. (WO 95/04542) as applied to claims 2 and 76 above, and further in view of Sanderson et al.

In view of the amendments made to claim 2, as explained above, Applicant respectfully requests that the Examiner withdraw the rejection of claims 5 and 78 under 35 U.S.C. §103(a) over Fikes in view of Sanderson et al.

The Examiner rejected claims 7 and 79 under 35 U.S.C. §103(a) as being unpatentable over Fikes, et al. (WO 95/04542) as applied to claims 2 and 76 above, and further in view of Gelder et al. (US Patent 6,043,347).

In view of the amendments made to claim 2, as explained above, Applicant respectfully requests that the Examiner withdraw the rejection of claims 7 and 79 under 35 U.S.C. §103(a) over Fikes in view of Gelder et al.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

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